

Question first recurring on the motion to adjourn, yeas and nays were demanded.

The motion was lost by the following vote:

**Yeas—12**

Brownlee	Shivers
Holbrook	Small
Moore	Stone
Pace	Weinert
Rawlings	Westerfeld
Roberts	Winfield

**Nays—17**

Aikin	Lemens
Beck	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Redditt
Head	Van Zandt
Hill	Woodruff
Isbell	

**Absent—Excused**

Spears	Sulak
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Question next recurring on the motion to recess, yeas and nays were demanded.

The motion prevailed by the following vote:

**Yeas—16**

Aikin	Lemens
Beck	Neal
Burns	Nelson
Cotten	Newton
Davis	Oneal
Head	Redditt
Hill	Van Zandt
Isbell	Woodruff

**Nays—13**

Brownlee	Shivers
Collie	Small
Holbrook	Stone
Moore	Weinert
Pace	Westerfeld
Rawlings	Winfield
Roberts	

**Absent—Excused**

Spears	Sulak
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The Senate, accordingly, at 2:25 o'clock p. m., took recess until 10:00 o'clock a. m. Thursday, June 3, 1937.

**APPENDIX**

**Report of Standing Committee**

Committee Room,  
Austin, Texas, May 27, 1937.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 1 carefully examined and compared and find same correctly enrolled.

WESTERFELD, Chairman.

**FOURTH DAY**

(Continued)

(Thursday, June 3, 1937)

The Senate met at 10 o'clock a. m. and was called to order by President Woodul.

**Message From the Governor**

The President laid before the Senate, and had read, the following message from the Governor:

Austin, Texas, June 3, 1937.

To the Senate of the Forty-fifth Legislature:

A number of members have asked me whether the subject matter of outlawing dog racing and strengthening the bookie statutes would be submitted to this Legislature.

This is to officially advise you that immediately after the passage of a bill outlawing race track betting, I will submit the matter of outlawing betting at dog races, tightening and strengthening of the bookie laws and other forms of gambling as well as the disposition of jacks and stallions. These latter subjects, however, have not been submitted and are not now submitted, but will be when the subject heretofore submitted has been disposed of. The purpose of this message is to officially record this declaration of intention for the information and assurance of all members of the Senate.

Respectfully,

JAMES V. ALLRED,  
Governor of Texas.

**Resolution Signed**

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled resolution:

H. C. R. No. 4, Granting the

House permission to adjourn from Tuesday, June 1, to Monday, June 7, 1937.

#### **Senate Resolution No. 2**

Senator Small, by unanimous consent of the Senate, offered, at this time, the following resolution:

Whereas, At the Regular Session of the Forty-fifth Legislature, the Senate adopted Senate Resolutions Nos. 12 and 90, authorizing the creation of certain committee to make inquiries into the reported evasions of the tax laws, and the unauthorized expenditure of money appropriated by the Legislature, and to do and perform various acts as is more fully detailed in said resolutions; and

Whereas, The resolutions provide that each member of the committee shall, for the purpose of hearing and obtaining testimony, constitute a quorum of said committee, and each member shall have the authority vested in the committee to summon and compel the attendance of witnesses as hereinabove provided; and

Whereas, It is thought unwise to delegate to any member of the committee plenary inquisitorial power or to allow one committeeman the full authority vested in the entire committee; now, therefore, be it

Resolved by the Senate, That said Resolutions Nos. 12 and 90 be, and they are hereby so amended as to require a majority of the members of each and every investigating committee authorized by and acting under the sanction of the Senate to constitute a quorum of said committee for the transaction of business, and that a majority of said committee be necessary to constitute a quorum for the purpose of hearing and obtaining testimony, summoning witnesses and discharging the functions authorized by said resolutions.

The resolution was read and was transmitted to the President's table.

#### **Relative to Consideration of Senate Bill No. 1**

Senator Small raised, at this time, and submitted in writing, the following point of order:

Mr. President:

I raise the point of order that Senate Bill No. 1 is not within the

Governor's proclamation convening this extraordinary session of the Legislature, for the following reasons, to-wit:

(1) The sole and only purpose assigned by the Governor as a reason for convening the Legislature in extraordinary session is "to outlaw and prohibit the so-called pari-mutuel betting or gaming on horse races, at race tracks, legalized by Acts of the Forty-third Legislature in 1933."

Sections 2 and 3 of Senate Bill No. 1 attempt to make it unlawful for any person, at any race track in this State, to take or accept any bet, or aid any other person in betting or taking or accepting any bet upon any horse race being run, trotted, or paced in this State. And Section 3 attempts to define the term "bet" or "wager" so as to provide that any bet or wager may be for money or any article of value, or by any device in the form of purchase or sale, or in any other form made for the purpose of concealing the true intention of the parties.

It is evident that pari-mutuel betting or gaming is only one of many different methods of betting and gaming on horse racing at race tracks, and it is equally evident that Senate Bill No. 1 not only attempts to outlaw and prohibit the so-called pari-mutuel betting or gaming on horse racing, but also attempts to make it an offense for any person to take or accept any individual bet on a race, or to make books upon a race, or to take or make a bet of any description, which is clearly beyond the purview of the proclamation of the Governor which confines the Legislature to a prohibition of the particular form of betting known as pari-mutuel betting or gaming.

(2) The text of the Governor's proclamation clearly shows that he had but one form of betting or gaming in mind, and that this form was the pari-mutuel method authorized by Acts of the Forty-third Legislature, and that the Governor specifically restricted the Legislature to a consideration of this one phase or method of betting or gaming, and that, by so limiting the Legislature, by the terms of his message he did not authorize the prohibition of any and all forms of gaming or betting on horse races at race tracks, which necessarily includes individual bets,

book making, and every other form of wagering on a horse race.

I desire that this point of order be printed in the Journal, and that it and the ruling of the Chair be made a part of the record of Senate Bill No. 1.

Respectfully,

SMALL.

Senator Small addressed to the President an argument on the question of whether the point of order should be sustained.

Senator Rawlings then called for an immediate decision by the President on the point of order and the call was duly seconded.

The President overruled the point of order.

Senator Rawlings asked that the point of order and the fact that it was made and overruled be indorsed on the original copy of Senate Bill No. 1.

The President stated that the request would be granted to the extent of having the Secretary of the Senate make an indorsement on the bill to show only the fact that the point of order, as set forth in full in the Journal, was raised and was overruled.

#### Senate Bill No. 1 on Second Reading.

The President laid before the Senate, on its second reading and passage to engrossment:

S. B. No. 1. A bill to be entitled "An Act repealing Chapter 10 of the laws of the Forty-third Legislature, First Called Session, Being House Bill No. 12, pages 32-41 of the General and Special Laws of the Forty-third Legislature, First Called Session, and re-enacting Articles 645 and 650 of the Penal Code of the State of Texas, to provide a penalty for its violation, and declaring an emergency."

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Amend S. B. No. 1 by striking out all below the enacting clause and substituting therefor the following:

Section 1. Chapter 10 of the Laws of the Forty-third Legislature, First Called Session, being House Bill No.

12, pages 32-41 of the General and Special Laws of the Forty-third Legislature, First Called Session, is hereby repealed.

Sec. 2. That from and after the passage of this Act it shall be unlawful for any person, firm, corporation, or association of persons at or within any enclosure in this State at which any horse race is to be run, trotted, or paced, to take or accept any bet or aid any other persons in betting, taking, or accepting any bet upon any horse race by means of the certificate system of betting.

The purpose of this section is to prohibit that method of betting under which contributions of moneys are received toward the entry of any horse in a race selected to finish in a certain position in such race, the person so contributing acquiring an interest in the total money so contributed on all horses in such race selected to finish in that position in proportion to the amount of money contributed by such person, the person so contributing receiving a certificate on which is shown the number of the race, the amount contributed, and the number or name of the horse respectively selected by such person, and the position in which the horse has been selected to run. Under such certificate system the sums contributed on all horses selected to run in the same position are paid out to the holders of certificates on the winning horse equally in proportion as the amount contributed by the holder of the certificate bears to the total amount contributed toward the entry of all horses in said race selected to run in that position.

Sec. 2-a. That from and after the passage of this Act, it shall be unlawful for any person, association of persons, or any corporation, at any race track in this State, to bet or wager any money, or any article of value, on any horse race to be run, trotted, or paced at any such track in this State.

Sec. 3. That Article 645 of the Penal Code of the State of Texas, be re-enacted and read as follows:

"Article 645. What 'bet or wager' includes. The bet or wager may be of money, or of any article of value, and any device in the form of purchases or sale or in any other form made for the purpose of concealing the true intention of the parties is:

equally within meaning of a bet or wager."

Sec. 4. Whoever violates any provision of this Act shall be fined not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500) and be imprisoned in jail not less than thirty (30) days nor more than ninety (90) days.

Sec. 5. The fact that many criminals and undesirables are gathering around and near race tracks that allow betting and "certificate system" of betting and it is causing an alarming increase in crime and promoting detrimental influence have created an emergency and an imperative public necessity that the constitutional rule providing a bill shall be read on three several days be suspended, and said rule is hereby suspended, and that this Act shall have effect and be in force from and after its passage, and it is so enacted.

Senator Rawlings raised a point of order on further consideration of the bill, for the same reasons set forth in the point of order previously submitted today by Senator Small.

The President overruled the point of order.

Senator Van Zandt offered the following substitute for the amendment of Senator Nelson:

Amend S. B. No. 1 by striking out all below the enacting clause and substituting in lieu thereof the following:

"Section 1. That Chapter 10 of the laws of the Forty-third Legislature, First Called Session, being H. B. No. 12, pages 32-41 of the General and Special Laws of the Forty-third Legislature, First Called Session, are hereby repealed, save and except paragraph three of Subsection One (1) of Section 1 thereof, which paragraph of said subsection and of said section is reenacted and amended so as to hereafter read as follows, to-wit:

"(a) That all funds deposited in the State Treasury for the maintenance of the Department of Agriculture and accruing thereto by reason of the operation of the Texas Racing Commission, as provided heretofore in said Chapter 10, Acts of the First Called Session of the Forty-third Legislature, are hereby continued in favor of all appropria-

tions heretofore made and drawn against said fund until the end of the current biennium ending August 31, 1937, and all unexpended balances thereof remaining in said fund to the use and benefit of said Department of Agriculture are hereby reappropriated to the support and maintenance of said Department of Agriculture for the year ending August 31, 1938, and August 31, 1939, and all of such unexpended balances are hereby reallocated, as provided under the provisions set forth in the General Appropriation for the biennium ending August 31, 1939; provided, however, that all items specifically set out in S. B. No. 138, Acts of the Forty-fifth Legislature in Regular Session, are made against and are to be drawn upon the unexpended balances herein reappropriated for said purposes and all sum or sums needed in excess of the amount remaining on hand in said fund are hereby declared to have been appropriated out of the General Revenue Fund for the year ending August 31, 1938, and the year ending August 31, 1939.

"(b) From and after the repeal of Chapter 10, Acts of the First Called Session of the Forty-third Legislature, the Commissioner of Agriculture of the State of Texas is hereby authorized to tender to the commissioners' court of each of the counties of Texas, one of the jacks or stallions now owned by the State of Texas. Said commissioners' courts shall assign one of said animals to some person as a caretaker of such animals. The Commissioner of Agriculture shall adopt and carry out reasonable rules and regulations with respect to the distribution, care, use and maintenance of such animals. Provided that should the number of animals be more than is necessary to go to said counties in the manner above provided, then the Commissioner, at his discretion, shall place such animals as may, in his judgment, seem best, and providing further that the title of all such jacks and stallions hereinbefore mentioned shall be and remain in the State of Texas. Provided further that in the event the Commissioner of Agriculture is unable to place any of such animals as above provided, due in any manner to defects or unfitness for breeding purposes, then the Com-

missioner of Agriculture is hereby authorized to turn such animals over to the State Board of Control who shall dispose of same to the best interest of the State.

"(c) All expenditures hereby authorized shall be paid upon accounts approved by the Commissioner of Agriculture and warrants drawn by the Comptroller on the State Treasurer, and payable out of any special funds belonging to the State Department of Agriculture, or any funds remaining unused, as herein provided and belonging to any part of the chapter herein and hereby repealed.

"(d) A fee of Seven and 50/100 (\$7.50) Dollars shall be collected by such caretaker at the time of the first breeding, provided if rebreeding is required to produce a foal, then this rebreeding must be within the calendar year. Said caretaker shall retain eighty (80%) per cent of all breeding fees collected by him as his full pay for care, feeding, and otherwise attending to said jack and stallion, and he shall remit to the Commissioner of Agriculture the remaining twenty (20%) per cent of such breeding fees on the first (1st) and fifteenth (15th) of each month. The said twenty (20%) per cent of such breeding fees shall be received by the Commissioner of Agriculture and shall be deposited by him in the State Treasury, where it shall be set up as a Special Jack and Stallion Fund to be used by the Commissioner in paying the salary of a Chief Supervisor of the Jack and Stallion Division and for all other necessary expenses incurred in connection with this Act.

"(e) Any and all moneys on deposit in the State Treasury to the credit of the Special Racing Fund shall be held for and disbursed thus, viz: An amount equal to twenty-five (25%) per cent of the funds in the Special Racing Fund shall, by the State Treasurer of the State of Texas, be paid into and credited to the State Available School Fund of Texas as provided by the Constitution of Texas.

"(f) All moneys now on hand and accruing to the Jack and Stallion Account under H. B. No. 779, Acts of the Forty-fourth Legislature, Regular Session, and amended by H. B. No. 8, Chapter 495, Forty-fourth

Legislature, Third Called Session, are hereby transferred to the Special Jack and Stallion Fund to be used by the Commissioner of Agriculture for making refunds on breedings heretofore reported in conformity with refunding provisions of H. B. No. 779, Acts of the Regular Session of the Forty-fourth Legislature, and for the payment of all other expenses incurred in the administration of this Act, subject to the biennial appropriation for the year ending August 31, 1939. The State Comptroller and the State Treasurer are hereby authorized and directed to make such transfers.

"After transferring from said Special Racing Fund the said twenty-five (25%) per cent going to the State Available School Fund and after transferring from said Special Racing Fund all moneys on hand and accruing to the Special Jack and Stallion Fund, the balance then remaining in said Special Racing Fund until it becomes exhausted, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for the Department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is the intent of the Legislature hereby that the above distribution shall immediately be made and the money so transferred shall become available now and for any and all appropriations made by the Regular Session of the Forty-fifth Legislature for the support and maintenance of the State Department of Agriculture and that the General Revenue Fund shall not be drawn on until all moneys in the Special Racing Fund shall become exhausted, and all unexpended balances remaining on hand, at the end of the current biennium ending August 31, 1937, shall be carried over in the succeeding biennium to the use and benefit of the said State Department of Agriculture, as provided in Subsection (a) hereof.

"Sec. 2. Pool Selling and Bookmaking. Whoever shall engage or assist in pool selling or bookmaking at any horse race or dog race in this State or elsewhere, or whoever shall use the telegraph, telephone, or radio in connection with pool selling or bookmaking, or whoever by

means of bookmaking or pool selling shall take or accept any bet or wager or money or anything of value on any horse race to be run, trotted or paced, in this State or elsewhere, or whoever shall aid any other person in betting or placing a bet or taking or accepting any bet or wager on any horse race to be run, trotted or paced in this State or elsewhere, shall be punished by a fine of not less than Five Hundred (\$500) Dollars, nor more than Five Thousand (\$5,000) Dollars and imprisonment in the county jail not to exceed two (2) years. It shall not be necessary to prove that the horse race was in fact run, trotted, or paced in this State or elsewhere.

"Sec. 3. Prima Facie Evidence of Violation. Proof of the receipt by any person, acting either as owner, principal, agent, or employee, upon the same day of bets upon two (2) or more horses entered in the same race or in different races or of two (2) or more bets on the same horse in the same race shall be prima facie evidence of a violation of the provisions of the preceding section. It shall not be necessary to prove that said horse race was in fact run, trotted or paced.

"Any indictment or information charging the defendant with receiving more than one wager or bet on a horse race on the same day shall be deemed sufficient to charge the offense of bookmaking or pool selling.

"Sec. 4. Using Place for Bookmaking. No owner, agent, or lessor or lessee of any property in this State shall knowingly permit the same to be used as a place for selling pools or bookmaking or wagering or receiving a bet or assisting any person in placing any bet or receiving or transmitting any offer to bet money or any article of value on any horse race to be run, trotted, or paced in this State or elsewhere. Proof of the use of any property in this State for the purpose herein declared to be unlawful shall be prima facie evidence of a violation of the provisions of this section. And it shall not be necessary to prove that said horse race was in fact run, trotted, or paced. Whoever violates any provision of this section shall be punished by confinement in the penitentiary for any term not to ex-

ceed five (5) years, or by fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000), and imprisonment in the county jail not to exceed two (2) years.

"Sec. 5. Use of Communication Methods to Aid Bookmaking. It shall be unlawful for any person either as owner, principal, agent, or employee of any corporation or association of persons knowingly to furnish telephone, telegraph, or radio service or equipment or to place the same on any property in this State used for the purposes prohibited by this Act or to assist in the violation of said section by the furnishing of any telegraph, telephone, or radio service or equipment. It shall be unlawful further for any person or association of persons or corporations knowingly to permit any telegraph, telephone, radio or other means of communication whatever to remain on any property used for the purposes prohibited by this Act. Any person or association of persons or any corporation violating any provision of this section shall be fined not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000). No person or corporation engaged in the public utility business of furnishing telegraph or telephone service to the public shall be liable in damages when it or they, in good faith, refuse to furnish telegraph or telephone service or equipment, or refuse to continue to do so believing it to be used or it is used in violation of this Act, or where it or they refuse to furnish or to continue to furnish telegraph or telephone equipment or service after written notice from a district attorney, county attorney, sheriff, chief of police or State ranger, that the equipment or service furnished to a particular person, corporation, or place is being furnished in violation of the provisions of this Act. After such notice has been given to any person or corporation engaged in the public utility business of furnishing telegraph or telephone service to the public that such service or equipment is being used or is to be used in violation of this Act, the continued furnishing of such service or equipment shall be prima facie evidence of the violation of the provisions of this section.

"Sec. 6. Whoever shall buy pools or otherwise wager or bet money on anything of value on any horse race to be run, trotted, or paced in this State or elsewhere or offer to wager or place any money or other thing of value with any person to be transmitted to any other place to be wagered on any horse race to be run, trotted or paced or whoever uses the telephone or telegraph for such purposes shall be fined not less than Fifty Dollars (\$50), nor more than Two Hundred Dollars (\$200).

"Sec. 7. A conviction may be had for the violation of the provisions of this Act upon the uncorroborated testimony of an accomplice; provided, further, that any party to a transaction prohibited by this Act may be required to furnish evidence and testify, but after so testifying such person shall be exempt from prosecution with reference to any transaction about which he testified or furnished evidence.

"Sec. 8. Miscellaneous Betting. If any person shall bet or wager at any gaming table or bank or shall bet or wager any money or other thing of value at any of the following games, viz.: muggins, crack-loo, crack-or-loo, or the game of matching money or coins of any denomination for such coins or for any other thing of value, or at any table or bank, by whatsoever name the same may be known, or whether named or not, and without reference as to how the same may be played, construed, or operated, or shall bet or wager upon any dog race, or upon the result of any race, speed, skill, or endurance contest, of, by, or between dogs, or shall bet or wager upon anything whatever, whether of like or unlike kind and character to the foregoing enumeration, in any place where people resort for the purpose of betting or wagering, he shall be fined not exceeding Fifty Dollars (\$50). When it is alleged and proven that the betting was on gaming table or bank, the court or jury may, in addition to said fine, impose a jail penalty of not less than ten (10), nor more than thirty (30) days. The provisions of this section shall be cumulative of all other sections in this Act, not in conflict with the terms hereof, and the punishment herein provided shall be optional to that so provided in such other sections hereof.

"Sec. 9. Keeping. If any person shall keep, or be in any manner interested in keeping any premises, building, room, place, track, park, land, field, lot, or any other place like or unlike the foregoing enumeration for the purpose of being used as a place to bet or wager or to gamble with cards, dice or dominoes, or to keep or exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device whatsoever, or to bet or wager upon any race, or speed, skill or endurance contest of, by or between dogs, or as a place where people resort to gamble, bet or wager upon anything whatsoever, whether of a like or unlike kind, class or character to the foregoing enumeration, he shall be confined in the penitentiary for not less than two (2), nor more than four (4) years, regardless of whether any of the above mentioned games, tables, banks, alleys, machines, wheels, devices, races or contests are taxed or licensed by law or not. Any place or device shall be considered as used for gaming or to gamble with or for betting or wagering, if any money or anything of value is bet thereon, or if the same is resorted to for the purpose of gaming or betting. The provisions of this article shall be cumulative of all other existing articles of the Penal Code and the punishment herein provided shall be optional to that so provided for specific acts made unlawful by such other articles.

"Sec. 10. That Articles 645 and 650 of the Penal Code of the State of Texas be reenacted and read as follows:

"Article 645. What 'Bet or Wager' Includes.—The bet or wager may be of money, or of any article of value, and any device in the form of purchases or sale or in any other form made for the purpose of concealing the true intention of the parties is equally within the meaning of a bet or wager.

"Article 650. Penalty for the Preceding Article.—Whoever violates any provision of the preceding article shall be fined not less than Two Hundred (\$200) Dollars, nor more than Five Hundred (\$500) Dollars and be imprisoned in jail not less than thirty (30) days nor more than ninety (90) days.

"Sec. 11. Articles 624, 625, 647, 648, 649, 651 and 652 of the Penal Code of Texas are hereby repealed.

"Sec. 12. If any clause, provision, requirement, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act; but shall be confined in its operation to the clause, provision, requirement, or part thereof declared invalid.

"Sec. 13. The fact that a Special Session of the Forty-fifth Legislature is now in session to consider the provisions set forth hereinabove creates an emergency and an imperative public necessity that the constitutional rule providing a bill shall be read on three (3) several days in each House be suspended, and said rule is hereby suspended, and that this Act shall have effect and be in force from and after its passage, and it is so enacted."

Senator Nelson raised a point of order on consideration of the substitute, on the ground that it contains subject matter not included as a subject for legislation in the proclamation of the Governor calling the Legislature to meet in special session.

Senator Nelson called for the President's ruling on the point of order immediately, and the call was duly seconded.

The President sustained the point of order.

Senator Van Zandt appealed from the ruling of the President.

Senator Holbrook was called to the Chair, pending the appeal.

Question—Shall the ruling of the President be sustained?

The Secretary was directed to call the roll.

The roll was called, and the Senate sustained the ruling of the President by the following vote:

#### Yeas—16

Aikin	Head
Beck	Hill
Burns	Isbell
Collie	Lemens
Cotten	Neal
Davis	Nelson

Newton  
Oneal

Redditt  
Woodruff

#### Nays—15

Brownlee  
Holbrook  
Moore  
Pace  
Rawlings  
Roberts  
Shivers  
Small

Spears  
Stone  
Sulak  
Van Zandt  
Weinert  
Westerfeld  
Winfield

Senator Rawlings offered the following amendment to the amendment of Senator Nelson:

Amend amendment to S. B. No. 1 by adding a new section thereto to read as follows:

Section —. Amend Article 647 of the Penal Code of the State of Texas so that said article, when so amended, shall read as follows:

"Article 647. No person, or any agent of any association of persons or any corporation, shall at any place in this State, engage or assist in pool selling or bookmaking on any horse race, dog race, automobile or motorcycle race, or any race of any character, or by means of any pool selling or bookmaking, take or accept any bet or aid any other person in any manner in betting or taking or accepting any bet upon any horse race, dog race, automobile or motorcycle race, or any race of any character, to be run, trotted or paced in this State or elsewhere. In order to obtain a conviction hereunder it shall only be necessary to prove that such sale or book was made, or that such bet was taken or accepted or such aid furnished, rendered or given, and it shall not be necessary to prove that such race was actually run, trotted or paced, but only that a bet or wager was placed or accepted thereon.

"Article 647a. No person or any agent of any association of persons or corporation, at any place in this State, shall furnish, either directly or indirectly, any telephone, telegraph, teletype, radio, or any other service, connection of means of communication, whether specifically named or enumerated herein, whereby or by means of which information is furnished upon any horse race, dog race, automobile or motorcycle race, or any race of any character, to be run, trotted or paced in this State or elsewhere.



"Article 647b. No person or any agent of any association of persons or corporation, at any place in this State, shall print, stamp, engrave, publish, circulate, furnish, sell, display, possess or offer for sale any newspaper, magazine, handbill or circular, or any publication of any character, or distribute the same, furnishing, giving, containing or setting forth any information of any character upon any horse race, dog race, automobile or motorcycle race, or any race of any character, that has been run, trotted or paced, or that is to be run, trotted or paced in this State or elsewhere, or the result thereof, upon which race any money or thing of value is bet or wagered.

"Article 647c. Any person or any agent of any association of persons or corporation who violates any of the provisions of Articles 647, 647a, or 647b shall, upon conviction, be confined in the penitentiary for not less than one year nor more than five years."

Senator Burns moved the previous question on the pending amendments and the passage of the bill to engrossment, and the motion was duly seconded.

(President in the Chair.)

Yeas and nays were demanded on the motion for the previous question, and the main question was ordered by the following vote:

Yeas—16

Aikin	Isbell
Beck	Lemens
Burns	Neal
Collie	Nelson
Cotten	Newton
Davis	Oneal
Head	Redditt
Hill	Woodruff

Nays—15

Brownlee	Spears
Holbrook	Stone
Moore	Sulak
Pace	Van Zandt
Rawlings	Weinert
Roberts	Westerfeld
Shivers	Winfield
Small	

Senator Nelson raised a point of order on further consideration of the

amendment to the amendment, on the ground that it contains subject-matter not submitted as a subject for legislation at the present session of the Legislature.

Senator Nelson called for an immediate decision by the President on the point of order, and the call was duly seconded.

The President sustained the point of order.

Question then recurring on the amendment by Senator Nelson, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—19

Aikin	Neal
Beck	Nelson
Burns	Newton
Collie	Oneal
Cotten	Redditt
Davis	Small
Head	Van Zandt
Hill	Westerfeld
Isbell	Woodruff
Lemens	

Nays—12

Brownlee	Shivers
Holbrook	Spears
Moore	Stone
Pace	Sulak
Rawlings	Weinert
Roberts	Winfield

Senator Nelson moved to reconsider the vote by which the previous question was ordered on the engrossment of the bill.

Yeas and nays were demanded, and the motion to reconsider prevailed by the following vote:

Yeas—23

Aikin	Nelson
Beck	Newton
Burns	Oneal
Collie	Pace
Cotten	Redditt
Davis	Roberts
Head	Small
Hill	Sulak
Holbrook	Van Zandt
Isbell	Westerfeld
Lemens	Woodruff
Neal	

## Nays—8

Brownlee	Spears
Moore	Stone
Rawlings	Weinert
Shivers	Winfield

Question recurred—Shall the main question now be ordered?

The Senate refused to order the main question at this time.

Senator Nelson offered the following amendment to the bill:

Amend S. B. No. 1, by amending the caption to conform to the changes made in the body of the bill.

Senator Burns moved the previous question on the amendment and the passage of the bill to engrossment, and the motion was duly seconded.

Yeas and nays were demanded, and the main question was ordered by the following vote:

## Yeas—16

Aikin	Isbell
Beck	Lemens
Burns	Neal
Collie	Nelson
Cotten	Newton
Davis	Oneal
Head	Redditt
Hill	Woodruff

## Nays—15

Brownlee	Spears
Holbrook	Stone
Moore	Sulak
Pace	Van Zandt
Rawlings	Weinert
Roberts	Westerfeld
Shivers	Winfield
Small	

Senator Rawlings, at this time, made the following request: That the Journal show he duly raised a point of order against consideration of Senator Nelson's amendment to the body of the bill, on the ground that the amendment changes the original purpose of the bill, and that the Journal further show the point of order was overruled by the President.

Senator Woodruff raised the point of order that the request of Senator Rawlings comes too late.

The President sustained the point of order of Senator Woodruff.

Question then first recurring on the amendment of Senator Nelson to the caption of the bill, it was adopted.

Question next recurring on the passage of the bill to engrossment, yeas and nays were demanded.

The bill was passed to engrossment by the following vote:

## Yeas—17

Aikin	Lemens
Beck	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Redditt
Head	Westerfeld
Hill	Woodruff
Isbell	

## Nays—14

Brownlee	Small
Holbrook	Spears
Moore	Stone
Pace	Sulak
Rawlings	Van Zandt
Roberts	Weinert
Shivers	Winfield

## Motion to Suspend Constitutional Rule

Senator Nelson moved that the constitutional rule requiring bills to be read on three several days be suspended, and that S. B. No. 1 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

## Yeas—18

Aikin	Lemens
Beck	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Redditt
Head	Small
Hill	Westerfeld
Isbell	Woodruff

## Nays—13

Brownlee	Spears
Holbrook	Stone
Moore	Sulak
Pace	Van Zandt
Rawlings	Weinert
Roberts	Winfield
Shivers	

**Adjournment**

Senator Nelson moved that the Senate adjourn until 12:50 o'clock p. m. Thursday, June 3, 1937.

Senator Rawlings moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Question first recurring on the motion of Senator Rawlings, yeas and nays were demanded.

The motion was lost by the following vote:

**Yeas—14**

Brownlee	Small
Holbrook	Spears
Moore	Stone
Pace	Sulak
Rawlings	Van Zandt
Roberts	Weinert
Shivers	Winfield

**Nays—17**

Aikin	Lemens
Beck	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Redditt
Head	Westerfeld
Hill	Woodruff
Isbell	

Question next recurring on the motion of Senator Nelson, it prevailed.

The Senate accordingly, at 12:45 o'clock p. m., adjourned until 12:50 o'clock p. m., Thursday, June 3, 1937.

**FIFTH DAY**

(Thursday, June 3, 1937)

The Senate met at 12:50 o'clock p. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin	Hill
Beck	Holbrook
Brownlee	Isbell
Burns	Lemens
Collie	Moore
Cotten	Neal
Davis	Nelson
Head	Newton

Oneal  
Pace  
Rawlings  
Redditt  
Roberts  
Shivers  
Small  
Spears

Stone  
Sulak  
Van Zandt  
Weinert  
Westerfeld  
Winfield  
Woodruff

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceeding of the Fourth Legislative day was dispensed with, on motion of Senator Roberts.

**Senate Resolution No. 2**

The President laid before the Senate, for consideration at this time, the following resolution:

S. R. No. 2, Amending Senate Resolutions Nos. 12 and 90, as adopted by the Senate during the Regular Session of the Forty-fifth Legislature.

The resolution was adopted.

**Senate Bill No. 1 on Third Reading**

The President laid before the Senate, on its third reading and final passage:

S. B. No. 1, A bill to be entitled "An Act repealing House Bill No. 12, Acts of the First Called Session of the Forty-third Legislature, same being Chapter 10 of the General and Special Laws of the First Called Session of the Forty-third Legislature; prohibiting in this State the certificate system of betting upon horse races; making it unlawful for any person, firm, corporation or association of persons, by means of the certificate system of betting, to bet upon or to aid any other person to bet upon any horse race; making it unlawful for any person, association of persons or corporation to bet or wager any money or article of value at any race track in this State upon any horse race to be run, trotted or paced at any such track in this State; re-enacting Article 645 of the Penal Code of the State of Texas; prescribing a penalty for violation of the provisions of this Act, and declaring an emergency."

The bill was read third time.